

City of Tucson Tax Code
Changes Related to Transient Rental
Ordinances 10360 & 10361, Effective January 1, 2007

Note: New text is underlined.
Deleted text is ~~strikethrough~~.

LICENSES AND PRIVILEGE TAXES

ARTICLE I. OCCUPATIONAL LICENSE TAX

DIVISION 1. GENERAL PROVISIONS

Sec. 19-1. Definitions.

As used in this article:

Broker means any person engaged or continuing in business who acts for another for a consideration in the conduct of a business activity taxable under this article, and who receives for his principal all or part of the gross income from the taxable activity.

Business includes all activities or acts including professions, trades and occupations, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, but not casual activities or sales.

Casual activity or sale means a transaction of an isolated nature made by a person who neither represents himself to be nor is engaged in a business subject to a tax imposed by this article; and which is wholly unrelated to that person's normal business transaction and which transaction occurs no more than once per calendar year.

Cigarette vending machine means any automatic vending machine used for the sale of cigarettes and controlled by the insertion of a coin, slug, token, plate or disc.

City means the City of Tucson, Arizona, in its present incorporated form or in any later reorganized, consolidated, enlarged or re-incorporated form.

Combined taxes means the sum of all applicable state transaction privilege and use taxes, all applicable transportation taxes imposed upon gross income by Pima County as authorized by A.R.S. Chapter 8.3, title 42 and all applicable taxes imposed by Article 1 of this Chapter.

Dealer trade show means an event having a duration not exceeding twenty (20) consecutive days, whereby dealers are engaged in sales to other dealers; however, such sales activity need not be limited exclusively to sales between dealers.

Employee means any individual who performs services for an employing unit and who is subject to the direction, rule, or control of the employing unit as to both the method of performing or executing the services and the results to be effected or accomplished; or who directs, rules or controls the employing unit, except employee does not include:

- (1) An individual who performs services as an independent contractor, business person, agent or consultant, or in a capacity characteristic of an independent profession, trade, skill or occupation.
- (2) An individual subject to the direction, rule, control or subject to the right of direction, rule or control of an employing unit solely because of a provision of law regulating the organization, trade or business of the employing unit.

Employing unit means an individual or type of organization, including a sole proprietorship, partnership, association, trust estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor of any of the foregoing, or the legal representative of a deceased person, who directs, rules or controls activity of one or more employees toward a purpose or objective.

Federally exempt organization means an organization which has received a determination of exemption under 26 U.S.C. section 501(c) and rules and regulations of the Commissioner of Internal Revenue pertaining to same, but not including a "governmental entity", "non-licensed business" or "public educational entity".

Finance director means the finance director of the city.

Hotel means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer, at a fixed location or other similar structure or portion thereof, and also means any space, lot or slab which is occupied or intended or designed for occupancy by transients in a mobile home or house trailer furnished by them for such occupancy. It includes any building or group of buildings containing sleeping accommodations for more than five (5) persons which are open to the transient public. It does not mean any convalescent home or facility, home for the aged, hospital, jail, military installation, fraternity or sorority house, nor does it mean a structure operated exclusively by an association, institution, governmental agency or corporation for religious, charitable or educational purpose or purposes, no part of the earnings of which association or corporation inures to the benefit of any private shareholder or individual.

Hotel operator means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his functions through a managing agency of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this section and shall have the same duties and liabilities as his principal.

Jukebox means any music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening, or by the payment of any price, operates or may be operated for the emission of songs, music or similar amusement.

Liquor sale means the sale of all alcoholic beverages as regulated by the Arizona Department of Liquor License and Control.

Mechanical amusement device includes any machine, except any machine in or upon which children may ride, which, upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally or used as a game, entertainment or amusement, excepting pay television, whether or not registering a score, as well as such devices as marble machines, pinball machines, skill ball, mechanical grab machines, miniature or mechanical billiard or snooker tables, or bumper pool, and all games, operation or transactions similar thereto.

Occupancy means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes and includes furnishings or services and accommodations accompanying the use or possession of said dwelling space, including storage for the property of the tenant and mandatory valet parking services.

Person means an individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the federal government, this state or any political subdivision or agency of this state. For the purposes of this chapter, a person shall be considered a distinct and separate person from any general or limited partnership or joint venture or other association with which such person is affiliated. A subsidiary corporation shall be considered a separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.

Promoter means an individual who promotes, schedules, contracts for, or otherwise arranges for a sales event, show, exhibition or any other public event where other individuals gather to sell, show, exhibit, display, entertain or in any other way render services to the general public for periods of twenty-one (21) consecutive days or less.

Receipt (of notice) the taxpayer means the earlier of actual receipt or first attempted delivery by certified United States mail to the taxpayer's address or record with the tax collector.

Rent means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

Street fair means an open-air marketplace event, having a duration not exceeding five (5) consecutive days, the boundaries of which have been set by the city for use by street fair vendors selected as set forth in section 7-300(b) and (c) of this Code and in which:

- (1) Public access to the city streets and alleys is curtailed by city action designating the specific portions of streets and alleys to be utilized for a specific time for street fair purposes only; and
- (2) Public access to city sidewalks is curtailed by city action limiting use of the sidewalks to pedestrian traffic only and prohibiting vending to, from, or upon those sidewalks during the specific time set for the street fair.

Street fair vendor means anyone who sells a product or renders a service at a street fair as defined in this article.

Successor in interest means any person who acquires a business interest by any means whatsoever.

Swap meet means a place of commercial activity, popularly known as a swap meet, flea market, park-and-swap, which is:

- (1) Open to the general public for the purchase of merchandise on the premises;
- (2) Available to the general public who wish to sell merchandise on the premises, whether such sellers or vendors are in the business of vending or are making casual sales or some combination thereof;
- (3) Composed of stalls, stands or spaces allotted to vendors, at least one (1) of whom does not occupy the same allotted space or spaces on an uninterrupted continuous daily basis.

Swap meet premises means any building, structure, lot or other area at which a swap meet sale is conducted.

Swap meet proprietor means any person who rents, sells, donates or otherwise makes available to swap meet vendors any space within premises owned or controlled by the swap meet proprietor for the purpose of making sales.

Swap meet vendor means any person upon the swap meet premises for the purpose of causing the advertisement of or making a sale at a swap meet.

Tax collector means the finance director or his/her designee or agent.

Transient means any person who exercises occupancy or is entitled to occupancy of a hotel as defined in this section by reason of concession, permit, right of access, license, or other agreement on a daily or weekly basis, or on any other basis for less than ~~for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy of 30 days or more.~~ In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this section may be considered.

Vending machine or *machine* means cigarette vending machine, jukebox or mechanical amusement machine.

Vending machine distributor means any person having his principal place of business in the city, or who conducts any portion of his business in the city, who sells, leases or rents for operation in the city under any kind of an agreement, or has an interest in by agreement or contract or otherwise, or services and maintains, one (1) or more of the machines defined in this section.

Vending machine owner-operator means any person who owns and operates or maintains one (1) or more "vending machines" as defined in this section, upon premises owned, operated, controlled or leased by him.
(Ord. No. 7885, § 2, 8-3-92; Ord. No. 8128, § 1, 9-27-93; Ord. No. 10360, § 1, 1-1-07)

Sec. 19-30. Other provisions.

Except as provided elsewhere in this article, the provisions of this division are hereby incorporated by this reference and made a part of divisions 2, 3 and 4 of article I as though fully set forth therein and shall apply to the tax levied in section 19-41, ~~of division 2 of this article; sections 19-43 51, and 19-54, of division 3 of this article and section 19-56 66, of division 4 of this article~~ with full force and effect.
(Ord. No. 7885, § 2, 8-3-92; Ord. No. 10360, § 2, 1-1-07)

Sec. 19-66. Tax imposed; nature and source of transient rental occupational license tax.

(a) *Six-percent tax.* Every person who operates or causes to be operated a hotel within the city is subject to and shall pay an occupational license tax in an amount equal to six (6) percent of the rent charged by the operator to a transient. The transient rental occupational license tax imposed on the class of lodging house operators serving transients as defined in Section 19-1 is not on the privilege of doing business within the City, but is a license tax on the transit rental occupation. The tax, when due, constitutes a debt owned by the operator to the city which is extinguished only by payment thereof to the city. If the rent is charged by the operator to the

transient in installments, the tax thereon shall be due as provided herein for the calendar month in which the installment was charged. Upon the transient's ceasing to occupy space in the hotel, the tax on any uncharged rent shall be due for that calendar month.

(b) *One-dollar surtax.* In addition to the measure of tax established in ~~paragraph subsection~~ (a), there is imposed upon every person who operates or causes to be operated a hotel within the city an additional amount of tax at the rate of one dollar (\$1.00) for each twenty-four[-hour] period or fraction thereof that each occupancy is rented. The amount of such additional tax shall be separately identified in the reports required by the rules and regulations for administration of the transient rental tax to be made by the taxpayer to the city and on the books and records of the taxpayer. The administrative rules and regulations aforementioned shall apply to this additional tax unless in conflict with this paragraph (b).

(c) *Exclusions.* The occupational license tax imposed by subsections (a) and (b) shall not apply to:

- (1) income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, Arizona, or any other state or a political subdivision of this state or any other state in a privately operated prison, jail, or detention facility;
- (2) gross proceeds of sales or gross income that is properly included in another business activity under Chapter 19, Article II and that is taxable to the person engaged in that business activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity;
- (3) gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax under this division;
- (4) gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under Sections 19-410 or 19-475 due to an exclusion, exemption, or deduction;
- (5) gross proceeds of sales or gross income from commissions received from a person providing services or property to the customers of the hotel; however, such commissions may be subject to tax under Sections 19-445 or 19-450 as rental, leasing, or licensing for use of real or tangible personal property; or
- (6) income from providing telephone, fax, or internet services to customers at an additional charge that is separately stated to the customer and is separately maintained in the hotel's books and records; however, such gross proceeds of sales or gross income may be subject to tax under Section 19-470 as telecommunication services.

(Ord. No. 7885, § 2, 8-3-92; Ord. No 9838 § 1, 5-5-03; Ord. No. 10360, § 3, 1-1-07)

~~Sec. 19-68. Administration, collection and payment.~~

~~—The administration, collection and payment of the tax imposed and levied herein shall be accomplished as provided in the administrative rules and regulations for the transients occupancy tax, three (3) copies of which are on file in the city clerk's office.~~
(Ord. No. 7885, § 2, 8-3-92)

~~Secs. 19-69 – 19-98. Reserved.~~

Sec. 19-68. Determination of rent based upon method of reporting.

The method of reporting chosen by the taxpayer, as provided in Section 19-520 shall necessitate the following adjustments to gross income for all purposes under this Article:

(1) Cash Basis. When a person elects to report and pay taxes on a cash basis, rent for the reporting period shall include:

- (a) the total amounts received on "paid in full" transactions, against which are allowed all applicable deductions and exclusions; and
- (b) all amounts received on accounts receivable, conditional sales contract, or other similar transactions against which no deductions and no exclusions from rent are allowed.

(2) Accrual Basis. When a person elects to report and pay taxes on an accrual basis, rent shall include all rent for the applicable period regardless of whether receipts are for cash, credit, conditional, or partially deferred transactions and regardless of whether or not any security document or instrument is sold, assigned, or otherwise transferred to another. Persons reporting on the accrual basis may deduct bad debts, provided that:

- (a) the amount deducted for the bad debt is deducted from rent of the month in which the actual charge-off was made and only to the extent that such amount was actually charged off and also only to the extent that such amount is or was included as taxable rental income; and
- (b) if any amount is subsequently collected on such charged-off account, it shall be included in rental income for the month in which it was collected without deduction for expense of collection.

(Ord. No. 7885, § 2, 8-3-92; Ord. No. 10360, § 3, 1-1-07)

Sec. 19-69. Exclusion of vendor issued coupons and rebates from rental income.

(a) The following items shall not be included in rent:

- (1) When coupons issued by a vendor are later accepted by the vendor as a discount against the transaction, the discount may be excluded from rental income as a cash discount. Amounts credited or refunded by a vendor for redemption of coupons issued by a person other than the vendor may not be excluded from rental income.
 - (2) Rebates issued by the vendor to a customer as a discount against the transaction may be excluded from rental income as a cash discount. Rebates issued by a person other than the vendor may not be excluded from rental income, even when the vendee assigns his right to the rebate to the vendor.
- (b) If the amount specified in subsection (a) above is credited by a vendor subsequent to the reporting period in which the original transaction occurs, such amount may be excluded from the taxable rental income of that subsequent reporting period but only to the extent that the excludable amount was reported as taxable rental income in that prior reporting period.

(Ord. No. 10360, § 3, 1-1-07)

Sec. 19-70. Exclusion of combined taxes from rent; itemization; notice; limitations.

(a) When Tax Is Separately Charged and/or Collected. The total amount of rental income shall be exclusive of combined taxes only when the person upon whom the tax is imposed establishes to the satisfaction of the tax collector that such tax has been added to the total price of the transaction. The taxpayer must provide to his customer and also keep a reliable record of the actual tax charged or collected, shown by cash register tapes, sales tickets, or other accurate record, separating net transaction price and combined tax. If at any time the tax collector cannot ascertain from the records kept by the taxpayer the total or amounts billed or collected on account

of combined taxes, the claimed taxes collected may not be excluded from rental income unless such records are completed and/or clarified to the satisfaction of the tax collector.

(b) *Remittance of All Tax Charged and/or Collected.* When an added charge is made to cover City (or combined) transient rental tax, the person upon whom the tax is imposed shall pay the full amount of the city taxes due, whether collected by him or not. In the event the taxpayer collects more than the amount due, the excess shall be remitted to the tax collector. In the event the tax collector cannot ascertain from the records kept by the taxpayer the total or amounts of taxes collected, and the tax collector is satisfied that the taxpayer has collected taxes in an amount in excess of the tax assessed under this Division, the tax collector may determine the amount collected and collect the tax so determined in the manner provided in this Division.

(c) *Itemization.* In order to be entitled to exclude from rent any amounts paid by customers for combined taxes passed on to such customers, the taxpayer shall show to the tax collector that the customer was provided with a written record of the transaction showing, at a minimum, the price before the tax, the combined taxes, and the total cost. This shall be in addition to the record required to be kept under Subsection (a) above.

(d) *When Tax Has Been Neither Separately Charged nor Separately Collected.* When the person upon whom the tax is imposed establishes by means of invoices, sales tickets, or other reliable evidence that no added charge was made to cover combined taxes, the taxpayer may exclude tax collected from such income by dividing such taxable rent by 1.00 plus a decimal figure representing the effective combined tax rate expressed as a fraction of 1.00.

(Ord. No. 10360, § 3, 1-1-07)

Sec. 19-71. Licensing requirements.

(a) *Generally.* Every person desiring to engage or continue in business activities within the city upon which a transient rental tax is imposed by this Article shall make application to the tax collector for a transient rental tax license, accompanied by a nonrefundable fee of ten dollars (\$10.00) and no person shall engage or continue in business or engage in such activities without such a license:

(b) *Limitation.* The issuance of a transient rental license by the tax collector shall not be construed as permission to operate a business activity in violation of any other law or regulation to which such activity may be subject.

(Ord. No. 10360, § 3, 1-1-07)

Sec. 19-72. Special Licensing Requirements.

(a) *Partnerships.* Application for a transient rental license by a partnership engaging or continuing in business in the City shall provide, at a minimum, the names and addresses of all general partners. Licenses issued to persons engaged in business as partners, limited or general, shall be in the name of the partnership.

(b) *Corporations.* Application for a transient rental license by a corporation engaging or continuing in business in the City shall provide, at a minimum, the names and addresses of both the chief executive officer and the chief financial officer of the corporation. Licenses issued to persons engaged in business as corporations shall be in the name of the corporation.

(c) *Multiple Locations or Multiple Business Names.* A person engaged in or conducting one (1) or more businesses at two (2) or more locations or under two (2) or more business names shall procure a license for each such location or business name. A "location" is a place of a separate business establishment.

(d) Conditions. Licenses shall not be issued until all legal requirements are met. It shall be a condition precedent to the issuance of a license that all statutes, ordinances, regulations, and other requirements affecting the public peace, health, and safety are complied with in total.
(Ord. No. 10360, § 3, 1-1-07)

Sec. 19-73. Licensing; duration of license; transferability; display.

(a) Except as provided in Section 19-74, the transient rental license shall be valid until request for cancellation and/or surrender of the license by the licensee or expiration through cessation by the licensee of the business activity for which it was issued.

(b) The transient rental license shall be nontransferable between owners or locations and shall be on display to the public in the licensee's place of business.

(c) Any licensee whose license expires through cancellation as provided in Section 19-74, by a request for cancellation, by surrender of the license, or by the cessation of the business activity for which the license was issued and who thereafter applies for license shall be granted a new license as an original applicant and shall pay the current license fee. Any licensee who loses or misplaces his transient rental license which is still in effect shall be charged the current license fee for each reissuance of a license.

(Ord. No. 10360, § 3, 1-1-07)

Sec. 19-74. Licensing: cancellation; revocation.

(a) Cancellation. The tax collector may cancel the city transient rental license of any licensee as inactive:

- (1) if the taxpayer, required to report monthly to the City, has neither filed any return nor remitted to the city any taxes imposed by this Article for a period of six (6) consecutive months;
- (2) if the taxpayer, required to report quarterly, has neither filed any return nor remitted any taxes imposed by this Article for two (2) consecutive quarters; or
- (3) if the taxpayer required to report annually, has neither filed any return nor remitted any taxes imposed by this Article when such annual report and tax are due to be filed with and remitted to the tax collector.

(b) Revocation. If any licensee fails to pay any tax, interest, penalty, fee, or sum required to be paid to the City under this Division or if such licensee fails to comply with any provision of this Article, the tax collector may revoke the City transient rental license of the licensee.

(c) Notice and hearing. The tax collector shall deliver notice to such licensee of cancellation or revocation of the transient rental license. If within twenty (20) days the licensee so notified requests a hearing, he shall be granted a hearing before the tax collector.

(d) Relicensing. After cancellation or revocation of a taxpayer's license, the taxpayer shall not be relicensed until all reports have been filed, all fees, taxes, interest, and penalties due have been paid, and the taxpayer is in compliance with this Article.

(Ord. No. 10360, § 3, 1-1-07)

Sec. 19-75. Operating without a license.

It shall be unlawful for any person who is required by this Article to obtain a transient rental tax license to engage in or continue in business within the city without a license. The tax

collector shall assess any delinquencies in tax, interest, and penalties which may apply against such person upon any transactions subject to the taxes imposed by this Division.
(Ord. No. 10360, § 3, 1-1-07)

Sec. 19-76. Recordkeeping requirements.

(a) Every person subject to the tax imposed by this Division shall keep and preserve suitable records and such other books and accounts as may be necessary to determine the amount of tax for which he is liable under this division. The books and records must contain, at a minimum, such detail and summary information as may be required by regulation or, when records are maintained within an electronic data processing (edp) system, the requirements established by the Arizona Department of Revenue for privilege tax filings will be accepted. Every person subject to the tax imposed by this Division shall keep and preserve such books and records for a period equal to the applicable limitation period as provided in section 19-28 for assessment of tax and all such books and records shall be open for inspection by the tax collector during any business day.

(b) The tax collector may direct, by letter, a specific taxpayer to keep specific other books, records, and documents. Such letter directive shall apply:

- (1) only for future reporting periods; and
- (2) only by express determination of the tax collector that such specific recordkeeping is necessary due to the inability of the City to conduct an adequate examination of the past activities of the taxpayer, which inability resulted from inaccurate or inadequate books, records, or documentation maintained by the taxpayer.

(Ord. No. 10360, § 3, 1-1-07)

Sec. 19-77. Recordkeeping; Claim of Exclusion, Exemption, Deduction, or Credit; Documentation; Liability.

(a) All deductions, exclusions, exemptions, and credits provided in this Division are conditional upon adequate proof and documentation of such as may be required either by this Division or regulation.

(b) Any person who claims and receives an exemption, deduction, exclusion, or credit to which the person is not entitled under this Division, shall be subject to, liable for, and pay the tax on the transaction as if the vendor subject to the tax had passed the burden of the payment of the tax to the person wrongfully claiming the exemption. A person who wrongfully claimed such exemption shall be treated as delinquent in the payment of the tax and shall be subject to interest and penalties upon such delinquency. However, if the tax is collected from the vendor on such transaction it shall not again be collected from the person claiming the exemption, or if collected from the person claiming the exemption, it shall not also be collected from the vendor.

(Ord. No. 10360, § 3, 1-1-07)

Sec. 19-78. Inadequate or unsuitable records.

In the event the records provided by the taxpayer are considered by the tax collector to be inadequate or unsuitable to determine the amount of the tax for which such taxpayer is liable under the provisions of this Division, the taxpayer shall either:

- (1) provide such other records required by this Division or regulation; or
- (2) correct or reconstruct the taxpayer's records to the satisfaction of the tax collector.

(Ord. No. 10360, § 3, 1-1-07)

ARTICLE II. PRIVILEGE AND EXCISE TAXES
DIVISION 4. - PRIVILEGE TAXES

Sec. 19-410. Amusements, exhibitions, and similar activities.

- (a) The tax rate shall be at an amount equal to two (2) percent of the gross income from the business activity upon every person engaging or continuing in the business of providing amusement that begins in the city or takes place entirely within the city, which includes the following type or nature of businesses:
- (1) Operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dance halls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, or entertainment.
 - (2) Reserved.
- (b) ~~Reserved.~~ Deductions or exemptions. The gross proceeds of sales or gross income derived from the following sources is exempt from the tax imposed by this section:
- (1) Amounts retained by the Arizona Exposition and State Fair Board from ride ticket sales at the annual Arizona state fair.
 - (2) Income received from a hotel business subject to tax under section 19-444, if all of the following apply:
 - (a) The hotel business receives gross income from a customer for the specific business activity otherwise subject to amusement tax.
 - (b) The consideration received by the hotel business is equal to or greater than the amount to be deducted under this subsection.
 - (c) The hotel business has provided an exemption certificate to the person engaging in business under this section.
 - (3) Income that is specifically included as the gross income of a business activity upon which another section of this article imposes a tax, that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.
 - (4) Income from arranging transportation connected to amusement activity that is separately stated to the customer, not to exceed consideration paid to the transportation business.
- (c) The tax imposed by this section shall not include arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement themselves or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by third party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement.
- (Ord. No. 6674, § 3, 3-23-87; Ord. No. 8440, § 8, 1-23-95; Ord. No. 10361, § 3, 1-1-07)

Sec. 19-444. Hotels.

The tax rate shall be at an amount equal to zero (0) percent of the gross income from the business activity upon every person engaging or continuing in the business of operating a hotel charging for lodging and/or lodging space furnished to any:

(1) Person.

(2) Exclusions. The tax imposed by this section shall not include:

- (a) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state in a privately operated prison, jail or detention facility.
- (b) Gross proceeds of sales or gross income that is properly included in another business activity under this article and that is taxable to the person engaged in that business activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.
- (c) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax under this article.
- (d) Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under section 19-410 or section 19-475 due to an exclusion, exemption or deduction.
- (e) Gross proceeds of sales or gross income from commissions received from a person providing services or property to the customers of the hotel. However, such commissions may be subject to tax under section 19-445 or section 19-450 as rental, leasing or licensing for use of real or tangible personal property.
- (f) Income from providing telephone, fax or internet services to customers at an additional charge, that is separately stated to the customer and is separately maintained in the hotel's books and records. However, such gross proceeds of sales or gross income may be subject to tax under section 19-470 as telecommunication services.

~~—— (3) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this section.~~

(Ord. No. 7446, § 2.7, 7-2-90; Ord. No. 9322, § 6, 11-22-99; Ord. No. 10361, § 7, 1-1-07)

Sec. 19-470. Telecommunication services. (Reg. 470.1)

(a) *Tax Rate.* The tax rate shall be at an amount equal to two (2) percent of the gross income from the business activity upon every person engaging or continuing in the business of providing telecommunication services to consumers within this city.

(1) Telecommunication services shall include:

- a. Two-way voice, sound, and/or video communication over a communications channel.
- b. One-way voice, sound, and/or video transmission or relay over a communications channel.
- c. Facsimile transmissions.
- d. Providing relay or repeater service.
- e. Providing computer interface services over a communications channel.
- f. Time-sharing activities with a computer accomplished through the use of a communications channel.

(2) Gross income from the business activity of providing telecommunication services to consumers within this city shall include:

- a. All fees for connection to a telecommunication system.
- b. Toll charges, charges for transmissions, and charges for other telecommunications services provided that such charges relate to transmissions originating in the city and terminating in this state.

- c. Fees charged for access to or subscription to or membership in a telecommunication system or network.
 - d. Charges for monitoring services relating to a security or burglar alarm system located within the city where such system transmits or receives signals or data over a communications channel.
 - e. Charges for telephone, fax or internet access services provided at an additional charge by a hotel business subject to taxation under section 19-444.
- (b) *Resale Telecommunication Services.* Gross income from sales of telecommunication services to another provider of telecommunication services for the purpose of providing the purchaser's customers with such service shall be exempt from the tax imposed by this section; provided that such purchaser is properly licensed by the city to engage in such business.
- (c) *Interstate Transmissions.* Charges by a provider of telecommunication services for transmissions originating in the city and terminating outside the state are exempt from the tax imposed by this section.
- (d) Reserved.
- (e) Reserved.
- (f) *Prepaid Calling Cards.* Telecommunications services purchased with a prepaid calling card that are taxable under section 19-460 are exempt from the tax imposed under this section.
- (g) *Internet Access Services.* The gross income subject to tax under this section shall not include sales of internet access services to the person's subscribers and customers. For the purposes of this subsection:
- (1) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.
 - (2) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.
- (Ord. No. 6674, § 3, 3-23-87; Ord. No. 8783, § 1, 12-2-96; Ord. No. 9322, § 11, 11-22-99; Ord. No. 9652, § 7, 1-14-02; Ord. No. 10361, § 11, 1-1-07)

Sec. 19-475. Transporting for hire. (Reg. 475.1)

The tax rate shall be at an amount equal to two (2) percent of the gross income from the business activity upon every person engaging or continuing in the business of providing the following forms of transportation for hire from this city to another point within the state:

- (1) Transporting of persons or property by railroad; provided, however, that the tax imposed by this subsection shall not apply to transporting freight or property for hire by a railroad operating exclusively in this state if the transportation comprises a portion of a single shipment of freight or property, involving more than one railroad, either from a point in this state to a point outside this state or from a point outside this state to a point in this state. For purposes of this paragraph, "a single shipment" means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the

point at which one of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.

- (2) Transporting of oil or natural or artificial gas through pipe or conduit.
- (3) Transporting of property by aircraft.
- (4) Transporting of persons or property by motor vehicle, including towing and the operation of private car lines, as such are defined in A.R.S. Article VII, Chapter 14, Title 42; however, the tax imposed by this subsection shall not apply to:
 - a. Gross income subject to the tax imposed by A.R.S. Article IV, Chapter 16, Title 28.
 - b. Gross income derived from the operation of a governmentally adopted and controlled program to provide urban mass transportation.
 - c. Reserved.
 - d. Reserved.

(5) Reserved.

(6) *Deductions or exemptions.* The gross proceeds of sales or gross income derived from the following sources is exempt from the tax imposed by this section:

- a. Income that is specifically included as the gross income of a business activity upon which another section of Article II imposes a tax, that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.
- b. Income from arranging amusement or transportation when the amusement or transportation is conducted by another person not to exceed consideration paid to the amusement or transportation business.

(7) The tax imposed by this section shall not include arranging transportation as a convenience to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the transportation is performed by third party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the person providing the transportation.

(Ord. No. 6674, § 3, 3-23-87; Ord. No. 8958, § 6, 9-22-97; Ord. No. 9322, § 12, 11-22-99; Ord. No. 10361, § 12, 1-1-07)